

Article - Public Utilities

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§7-513.

(a) (1) In accordance with this subsection, an electric company shall be provided a fair opportunity to recover all of its prudently incurred and verifiable net transition costs, subject to full mitigation, following the Commission's determination under subsection (b) of this section.

(2) A competitive transition charge, or other appropriate mechanism that the Commission determines, may be included for customers who access the transmission or distribution system of the electric company in whose distribution territory the customer is located. The costs authorized by the Commission to be recovered shall be allocated to customer classes in a manner that, as nearly as reasonably possible, does not exceed the cost of providing the service to those classes of customers, avoiding where reasonably possible any interclass or intraclass cross subsidy.

(3) (i) The competitive transition charge may be included on bills to customers for a period determined by the Commission.

(ii) The Commission may establish recovery periods of different lengths for each electric company and for different categories of transition costs.

(4) A competitive transition charge, or other appropriate mechanism determined by the Commission, may not apply to any on-site generated electricity to the extent of:

(i) the existing facilities' installed generating capacity as of January 1, 1999;

(ii) the generating capacity of an existing facility to be installed under a legally binding contract:

1. executed on or before January 1, 1999; or

2. executed on or before September 29, 1999, if the Commission, on a case by case review of the evidence, determines that negotiations in good faith concerning the contract were ongoing as of January 1, 1999; or

(iii) for a facility with a capacity of 500 kilowatts or less:

1. the first 80 megawatts of the aggregate statewide generating capacity of on-site generating facilities;

2. the generating capacity of the facility if the facility:

A. is installed between January 1, 2000 and December 31, 2003;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 40%; or

3. the generating capacity of the facility if the facility:

A. is installed after January 1, 2004;

B. derives electricity from fuel cells, photovoltaics, wind machines, or microturbines; and

C. has an energy conversion efficiency greater than 50%.

(b) The Commission shall determine the transition costs and the amounts of the transition costs that an electric company shall be provided an opportunity to recover under its restructuring plan through the competitive transition charge or other appropriate mechanism.

(c) (1) After July 1, 1999, an electric company may apply to the Commission for a qualified rate order for some or all of its transition costs.

(2) If the Commission issues a qualified rate order and the transition bonds approved by that order are successfully issued:

(i) the electric company shall impose and collect, through its customer bills, the intangible transition charges approved by the qualified rate order; and

(ii) at the same time, the electric company's competitive transition charge shall be reduced by an amount equal to that portion of the competitive transition charge related to the transition costs for which transition bonds have been successfully issued, together with any costs of capital related to the

transition costs for which recovery was provided in the competitive transition charge, as provided in the qualified rate order.

(d) (1) The Commission shall establish procedures for the annual review of the competitive transition charge for each electric company to reconcile the annual revenues received from the charge with the annual amortization of transition costs approved by the Commission under this section to take account of actual kilowatt-hour sales in the prior year compared with previously estimated kilowatt-hour sales. The Commission shall adjust the competitive transition charge based on any under recovery or over recovery with respect to the authorized amortization amount.

(2) Nothing in this subtitle may be construed as preventing the Commission from approving for an investor-owned electric company:

(i) an adjustment mechanism proposed by the investor-owned electric company in its initial restructuring proposal filed prior to January 1, 1999, that takes into account differences other than differences in kilowatt-hour sales, taking into consideration any requirements related to any transition bonds;

(ii) an adjustment that takes into account generation asset sales by an electric company or an affiliate to a nonaffiliate that are consummated on or before June 30, 2005; or

(iii) any other mechanism as part of a settlement.

(e) (1) In determining the appropriate transition costs or benefits for each electric company's generation-related assets, the Commission shall:

(i) conduct public hearings; and

(ii) consider, in addition to other appropriate evidence of value:

1. book value and fair market value;

2. auctions and sales of comparable assets;

3. appraisals;

4. the revenue the company would receive under rate-of-return regulation;

5. the revenue the company would receive in a restructured electricity supply market; and

6. computer simulations provided to the Commission.

(2) The Commission shall determine any equitable allocation of costs or benefits between shareholders and ratepayers. In determining the allocation of transition costs or benefits, the Commission shall consider the following factors:

- (i) the prudence and verifiability of the original investment;
- (ii) whether the investment continues to be used and useful;
- (iii) whether the loss is one of which investors can be said to have reasonably borne the risk; and
- (iv) whether investors have already been compensated for the risk.

(f) This section does not apply to rate stabilization costs established or qualified rate orders issued under Part III or Part IV of this subtitle.

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